

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ANITA WYLIE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:18-cv-03652-TWP-DLP
	)	
BROOKDALE SENIOR LIVING, INC.,	)	
ROBIN RUN RETIREMENT VILLAGE,	)	
	)	
Defendants.	)	
_____	)	
	)	
ROBIN RUN RETIREMENT VILLAGE,	)	
BROOKDALE SENIOR LIVING, INC.,	)	
	)	
Counter Claimants,	)	
	)	
v.	)	
	)	
ANITA WYLIE,	)	
	)	
Counter Defendant.	)	

**REPORT AND RECOMMENDATION TO**  
**DISMISS COMPLAINT WITHOUT PREJUDICE**

The Court scheduled an Initial Pretrial Conference on February 5, 2019 and the parties appeared in person. (Dkt. 10) During the Initial Pretrial Conference, a scheduling order was discussed and agreed upon. The Court filed the agreed scheduling order on February 5, 2019. (Dkt. 11)

On April 18, 2019, the Court denied Pro Se Plaintiff, Anita Wylie's Motion for Judgment on the Pleading, or in the Alternative, Motion for Summary Judgment. (Dkt. 12) Additionally, the Court Granted Brookdale Senior Living Inc.'s Motion for

Leave to File Amended Designation of Evidence. (Dkt. 19) The Court gave Ms. Wylie thirty (30) days from the date of the entry to file a pleading in response to Brookdale's Counterclaim that complies with the Federal Rules of Civil Procedure. A pleading was not filed.

On May 21, 2019, a Motion for Clerk's Entry of Default was filed by Counter Claimants Brookdale Senior Living Inc., Robin Run Retirement Village. The Court granted in part and denied in part default judgment and entry of default was entered on June 19, 2019.

A telephonic status conference was scheduled on May 22, 2019. The Pro Se Plaintiff failed to appear, and Counsel for the Defendant appeared by telephone. The Court issued an order to show cause to the Pro Se Plaintiff. (Dkt. 23) Plaintiff was ordered to show cause in person at a hearing scheduled for June 28, 2019 as to why she failed to appear for the May 22, 2019 Telephonic Status Conference. The Order explicitly warned Plaintiff that failure to appear "may result in sanctions, up to and including case dismissal." (Dkt. 23) Plaintiff failed to appear for the show cause hearing.

On June 28, 2019 at approximately 10:30 a.m., the Court received a phone call from Ms. Wylie stating she would not be attending the Show Cause Hearing due to the heat. Chamber's Staff repeatedly told Ms. Wylie that there was a Court Order ordering her to appear in Court.

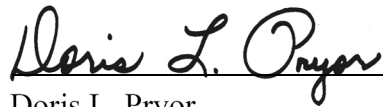
Plaintiff violated this Court's orders twice by failing to appear, even in the face of an explicit warning that failure to appear could result in dismissal. Because of the Plaintiff's failure to comply with the Court's orders, the Magistrate Judge recommends to the District Judge that the Plaintiff's complaint be

**DISMISSED WITHOUT PREJUDICE.**

Any objections to the Magistrate Judge's Report and Recommendation must be filed in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). Failure to file objections within fourteen days after service will constitute a waiver of subsequent review absent a showing of good cause for such failure.

So RECOMMENDED.

Date: 6/28/2019

  
Doris L. Pryor  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email

ANITA WYLIE  
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